



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**Region I – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912**

Sent via FOIAonline

Date: See signature stamp below

RE: Freedom of Information Act Request No. EPA-R1-2021-002576

Dear Ms. Li:

This is an *interim* response to your Freedom of Information Act request of February 11, 2021, **for specific records related to the Sprague Twin Rivers Technology Terminal located at 740 Washington Street in Quincy, MA.**

On February 24, 2021, CLF's Alex St. Pierre had a conversation with EPA Attorney Tom Olivier indicating that CLF is looking for permits, inspection reports, findings, monitoring results, etc., but not "all records relating to" such documents. Ms. St. Pierre narrowed her request to exclude records EPA identifies as subject to FOIA Exemptions 5 & 7. Ms. St. Pierre also excluded all emails from the scope of her request, while reserving the right to submit a future FOIA request for such material. Ms. St. Pierre did not exclude records claimed as Confidential Business Information (CBI).

Region 1 FOIA personnel have identified and uploaded, into FOIAonline, **128** non-privileged documents responsive to CLF's request. However, there may be hardcopy records located in our Boston office that would require Region 1 FOIA personnel conduct a physical search for any responsive information.

On March 13, 2020, the President declared a nationwide emergency for COVID-19 pandemic pursuant to Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207. On March 15, 2020, the Administrator extended a voluntary unscheduled telework/unscheduled leave policy to all agency employees. On March 17, 2020, the Office of Management and Budget (OMB) directed federal agencies to "adjust operation and services to minimize face-to-face interactions." Specifically, the OMB guidance stated that "[n]on-mission-critical functions that cannot be performed remotely or that require in-person interactions may be postponed or significantly curtailed." (Available at <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-16.pdf>).

Region 1 FOIA personnel are working full-time at alternative work locations separate from their assigned duty station offices and are currently unable to access hardcopy files for review and processing. Given the uncertainty of the COVID-19 situation, it is difficult to predict when EPA will be able to obtain access to the records that require a physical search.

Also, it has been determined that certain responsive records, specifically the Spill Prevention, Control and Countermeasures Plan (SPCC) and the Facility Response Plan (FRP) for the Sprague Twin Rivers Technology Terminal, may contain confidential business information, trade secrets or commercial or financial information which is exempt from disclosure under 5 U.S.C. 552(b)(4). Pursuant to 40 C.F.R. 2.204(d)(1), this portion of your request is being *initially denied* because further inquiry by EPA is required before a final determination can be made. We will consult with the third party covering these records and Region 1's Office of Regional Counsel will issue a final confidentiality determination.

As noted above, the information withheld under Exemption 4 will be reviewed by the appropriate legal office who will issue a final confidentiality determination. Therefore, you do not need to appeal the withholding of information pursuant to Exemption 4. Once the legal office issues a final confidentiality determination, EPA will notify you whether the information qualifies for confidential treatment or may be released.

To the extent you would like to appeal any other issue, you may appeal this response by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact press@epa.gov.

Due to the limited nature of your request there is no charge for the processing of it.

Sincerely,

Ken Moraff, Director
Water Division

cc: Cris Schena, R1 FOI Officer